

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Recovery of Costs to Implement Electric Rule 24 Direct Participation Demand Response (U39E).

Application 14-06-001
(Filed June 2, 2014)

And Related Matters.

Application 14-06-002
Application 14-06-003

**DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK FOR
SUBSTANTIAL CONTRIBUTION TO DECISION 15-03-042**

Intervenor: The Utility Reform Network (TURN)	For contribution to Decision (D.) 15-03-042
Claimed: \$ 17,126.57	Awarded: \$17,126.57
Assigned Commissioner: Michel Peter Florio	Assigned ALJ: Kelly A. Hymes

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	D.15-03-042 addressed the scope, budget, cost recovery, and cost allocation requests of all three electric investor-owned utilities (IOUs) to implement Rules 24 and 32 requirements for facilitating third party demand response participation in wholesale markets. The decision approved the Initial Implementation Step of a phased implementation approach, adopted a total budget of approximately \$7.5 million for all three utilities, and allocated costs to all distribution customers. The Decision also adopted certain reporting requirements and processes for subsequent phased implementation of Rules 24 and 32.
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):	July 30, 2014	Verified.
2. Other specified date for NOI:		
3. Date NOI filed:	August 29, 2014	Verified.
4. Was the NOI timely filed?		Yes, The Utility Reform Network (TURN) timely filed the notice of intent to claim intervenor compensation.
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:		
6. Date of ALJ ruling:		
7. Based on another CPUC determination (specify):	See note	
8. Has the Intervenor demonstrated customer or customer-related status?		See Part I.C, below.
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:		
10. Date of ALJ ruling:		
11. Based on another CPUC determination (specify):	See Note	
12. Has the Intervenor demonstrated significant financial hardship?		See Part I.C, below.
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D. 15-03-042	Verified.
14. Date of issuance of Final Order or Decision:	March 27, 2015	Verified.
15. File date of compensation request:	May 26, 2015	Verified.
16. Was the request for compensation timely?		Yes, TURN timely filed the request for intervenor compensation.

C. Additional Comments on Part I:

#	Intervenor's Comment(s)	CPUC Discussion
7, 11	TURN timely filed an NOI on November 25, 2013. Since the ALJ did not issue an eligibility ruling on the NOI, TURN hereby requests that the Commission, based on the information submitted in the NOI, issue a finding in the decision on this compensation request that TURN is a customer, has met the requirements for significant financial hardship and is eligible for compensation in this proceeding. TURN is a Category 3 customer and had received a finding of significant hardship on 9/6/2013 in A.12-11-009, issued within one year of the filing of this Rulemaking.	Agreed. TURN meets the requirements for significant financial hardship and is a Category 3 customer. TURN is found eligible to seek compensation in this proceeding.

PART II: SUBSTANTIAL CONTRIBUTION**A. Did the Intervenor substantially contribute to the final decision (see § 1802(i), § 1803(a), and D.98-04-059).**

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
1. TURN strongly supported phased multi-step approach to implementing utility IT changes necessary to implement Rule 24 in order to minimize potential stranded costs if there is low participation interest. The Commission agreed that a multi-step approach was justified and authorized only limited costs for the first phase.	TURN Opening Brief, December 22, 2014, p. 2-7. TURN Reply Comments on PD, March 17, 2015, p. 3-5. D.15-03-042, p. 17- 19 (p. 17- "Hence, as highlighted by The Utility Reform Network (TURN), there is a risk of stranded assets if the Applicants build out their systems but the participation level does not come to fruition.")	Verified.
2. TURN recommended that any authorization for Phase 2 implementation be delayed until there is additional evidence concerning technical issues and adoption. The Commission agreed and ordered the utilities to provide	TURN Opening Brief, p. 9 D.15-03-042, p. 20-24 D.15-03-042, p. 26 ("In order to ensure a complete record in this	Verified.

quarterly reports, and ordered the utilities to file new application for future phases.	proceeding, we direct the Applicants to file status reports as suggested by TURN.”)	
<p>3. Manual Processes:</p> <p>TURN recommended manual process to test systems.</p> <p>The Commission agreed use of manual systems in Phase 1 is warranted.</p>	<p>TURN Opening Brief, p. 7.</p> <p>D.15-03-042, p. 36-38.</p>	Verified.
<p>4. RQMD</p> <p>TURN recommended that the Commission authorize use of PG&E’s Green Button data as a proxy for Revenue Quality Meter Data (RQMD) in case PG&E could not provide RQMD data to third parties in a timely manner.</p> <p>The final decision found that the issue was resolved, based at least in part on PG&E’s assertion, in reply comments on the PD, that its “Share My Data” platform went live on March 16, 2015.</p>	<p>TURN Opening Brief, December 22, 2014, p. 11-2.</p> <p>TURN Comments on PD, March 12, 2015, p. 3.</p> <p>D.15-03-042, p. 44.</p>	Verified.
<p>5. Cost Allocation</p> <p>TURN argued that Rule 24 implementation costs should be allocated to all customers because all customers were eligible to participate in Rule 24. TURN refuted arguments by DACC/AReM.</p> <p>The Commission fully agreed with TURN and other parties concerning cost allocation of Rule 24/32 implementation costs.</p>	<p>TURN Opening Brief, December 22, 2014, p. 10-11.</p> <p>TURN Reply Brief, January 8, 2015, p. 1-4.</p> <p>TURN Reply Comments on PD, March 17, 2015, p. 1-2.</p> <p>D.15-03-042, Sec. 5.4.2, p. 49-53 p. 52 – “We agree with TURN’s conclusion that the direct participation rule requires the investor-owned utility to act as the meter data management agent for all community choice aggregation customers. Further, investor-owned utilities may act as the meter data management agent for direct access</p>	Verified.

	customers, causing the utilities to incur costs for these customers' direct participation. Hence, we conclude that the cost for implementation of direct participation should be allocated to distribution customers.”	
<p>6. Provision of AS and RT Services</p> <p>TURN supported providing AS and RT services but recommended additional time and process to evaluate any potential increased budgets to provide AS and RT services.</p> <p>The PD was modified to clarify that the IOUs should submit testimony concerning incremental budgets, but the Decision did not specify a process for commenting on the testimony.</p>	<p>TURN Opening Brief, p. 6.</p> <p>TURN Comments on PD, March 12, 2015, p. 2-3.</p> <p>D.15-03-042, OP 6 and 7, p. 66.</p>	Verified.

B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor's Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?	Yes	Yes.
b. Were there other parties to the proceeding with positions similar to yours?	Yes, on some issues	Yes.
c. If so, provide name of other parties: Joint Demand Response Parties, OhmConnect		Verified.
d. Intervenor's claim of non-duplication: TURN's compensation in this proceeding should not be reduced for duplication of the showings of other parties. In a proceeding involving multiple participants, it is virtually impossible for TURN to completely avoid some duplication of the work of other parties. In this case, TURN coordinated with both the ORA and OhmConnect to minimize duplication, and to ensure that when it did happen, our work served to complement and assist the showings of the other parties. TURN limited its participation to certain policy issues concerning phased implementation, cost allocation and to issues concerning the use of Green		Verified.

	Intervenor's Assertion	CPUC Discussion
Button data. TURN did not address at all the reasonableness of the utilities' cost recovery requests. Any incidental duplication that may have occurred here was more than offset by TURN's unique contribution to the proceeding. Under these circumstances, no reduction to our compensation due to duplication is warranted given the standard adopted by the Commission in D.03-03-031.		

C. Additional Comments on Part II:

#	Intervenor's Comment	CPUC Discussion
4, 6	<p><u>Partial Contribution:</u> The Commission has interpreted the Section 1802 definition, in conjunction with Section 1801.3, so as to effectuate the legislature's intent to encourage effective and efficient intervenor participation. The statutory provision of "in whole or in part," as interpreted by multiple Commission decisions on intervenor compensation requests, has established as a general proposition that when a party makes a substantial contribution in a multi-issue proceeding, it is entitled to compensation for time and expenses even if it does not prevail on some of the issues. See, for example, D.98-04-028 (awarding TURN full compensation in CTC proceeding, even though TURN did not prevail on all issues); D.98-08-016, pp. 6, 12 (awarding TURN full compensation in SoCalGas PBR proceeding); D.00-02-008, pp. 4-7, 10 (awarding TURN full compensation even though we unsuccessfully opposed settlement).</p> <p>The Commission should compensate TURN for all work in this proceeding, despite the fact that the Commission rejected one of TURN's recommendations (Green Button data) in this proceeding.</p>	<p>The cited decisions do not establish Commission policy or precedent. Pursuant to Public Utilities Code § 1802(i), "Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the Commission may award the customer compensation for <u>all reasonable advocate's fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation.</u>" (Emphasis added.)</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§ 1801 and § 1806):**

<p>a. Intervenor’s claim of cost reasonableness:</p> <p>The primary issue in this proceeding concerned the policy related to the scope and timing of the implementation of Rule 24 to promote third party participation in the CAISO market. This policy issue includes both substantive policy concerns regarding competition and third party participation in CAISO markets, as well as economic issues concerning utility investments in IT and processes to implement Rule 24. While these issues will thus impact ratepayer costs in the long run, it is not possible to quantify explicit economic benefits from TURN’s participation in this case. As an example, TURN notes that PG&E forecast a cost of approximately \$18 million for promoting large-scale implementation of Rule 24.</p>	<p>CPUC Discussion</p> <hr/> <p>Verified.</p>
<p>b. Reasonableness of hours claimed:</p> <p>TURN’s request in this case includes approximately 40 hours of attorney time for TURN’s staff attorney Marcel Hawiger. TURN suggests that such an amount of time is reasonable for this proceeding.</p> <p>The specific cost recovery requests in this proceeding were quite limited, and TURN did not initially anticipate being active in the proceeding. However, the Scoping Memo for this proceeding raised the question of whether the Commission should authorize a phased approach to Rule 24 implementation, and whether the partial implementation proposed by the utilities was reasonable. Additionally, the Scoping Memo raised the issue of how to coordinate these Rule 24 applications with work being conducted in Rulemaking 13-09-011. Subsequently, the ORA and a third party vendor raised the issue of access to Revenue Quality Meter Data (RQMD) so as to allow third parties to participate in the CAISO wholesale markets. Thus, TURN became more actively engaged as a result of these scope modifications. TURN addressed policy issues which will have important ramifications for future demand response activities.</p> <p>Mr. Hawiger has been a staff attorney with TURN since 1998. Mr. Hawiger has been the lead attorney on several proceedings related to demand response and DSM issues, including prior rulemakings addressing the cost effectiveness of demand response and prior applications for demand response programs and cost recovery. In this proceeding, Mr. Hawiger was solely responsible for participating in workshops, attending meetings and drafting all of TURN’s pleadings.</p>	<p>Verified.</p>

c. Allocation of Hours by Issue			Verified.
TURN uses a combination of activity and issue codes when itemizing the hourly work performed by attorneys and consultants. The main activity codes used for time accounting in this proceeding include the following:			
Issue	Description	Code	
General	General work necessary for participation which does not necessarily vary with the number of issues	GP	
Multiple	Work covering multiple issues that cannot be easily segregated	#	
Hearings	General hearing work	GH	
Cost Allocation	Cost allocation of Rule 24 implementation costs	Ca	
RQMD	Use of Green button data as proxy for RQMD	GB	
Implementation	Scope and timing of Rule 24 implementation	Imp	
Coordination	Coordinate with other parties to discuss issues and minimize duplication	Coord	
Some of the daily work in this proceeding spanned multiple issues and could not be separately coded by issue. TURN generally used the activity code “#” to denote work that covers multiple issues and cannot be easily allocated to specific issues.			
Some work is fundamental to active participation in a Commission proceeding, and may not be allocable by issue and/or the amount of time required may not vary by the number of issues. Examples of these tasks include reviewing other parties’ testimony and filings, reviewing the proposed and any alternate decision; attending prehearing conferences and ex parte meetings; and preparing compensation filings. TURN uses the activity code “GP” to represent such general participation time that is not allocable by issue.			
TURN addressed three primary substantive issues in this proceeding: 1) the phased approach to implementing Rule 24; 2) allocation of implementation costs; and 3) use of Green Button data as a proxy for RQMD. Based on a review of the actual daily time sheets, a review of TURN’s testimony and pleadings, and personal recollection by the attorney of record, TURN provides the following approximate allocation of time for these three primary issues:			

Issue	Description of Issue	% of Attn Time	
CA	Allocation of Costs between participants, non-participants and shareholders	20%	
Imp	Scope and timing of Rule 24 Implementation	40%	
GB	Use of Green Button Data as a proxy for RQMD	35%	
Other	Other issues	5%	
As TURN described in the opening section of this compensation request, our substantial contribution to the Commission's decision warrants an award of full compensation. However, should the Commission determine that a reduction is called for on any particular issue, it should determine the appropriate reduction to the hours that fall into that category and, if necessary, apply an appropriate percentage reduction to the hours designated “#” in the hourly time sheets.			

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Marcel Hawiger	2014	28.75	\$410	D.14-05-015, p. 28; Resolution ALJ-303 (2.56% COLA)	\$11,787.50	28.75	\$410 ¹	\$11,787.50
Marcel Hawiger	2015	11.00	\$410	Res. ALJ-308	\$4,510.00	11.00	\$410	\$4,510.00
Subtotal: \$16,297.50						Subtotal: \$ 16,297.50		

¹ Approved in Decision (D.) 15-07-025.

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Marcel Hawiger	2015	4	205	Res. ALJ-303 (2.56% COLA); Res. ALJ-308	\$820.00	4	\$205	\$820.00
Subtotal: \$820.00						Subtotal: \$820.00		
COSTS								
#	Item	Detail			Amount	Amount		
	Copying	Copying of testimony and pleadings for ALJ and Commissioner offices			\$4.10	\$4.10		
	FedEx/Postage	Postage and FedEx for testimonies and pleadings to CPUC			\$4.97	\$4.97		
		Subtotal			\$9.07	\$9.07		
TOTAL REQUEST: \$17,126.57						TOTAL AWARD: \$17,126.57		
<p>**We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenors' records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate.</p>								
ATTORNEY INFORMATION								
Attorney		Date Admitted to CA BAR ²		Member Number		Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation		
Marcel Hawiger		1/23/1998		194244		No.		

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No.
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² This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?	Yes.
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FINDINGS OF FACT

1. TURN has made a substantial contribution to Decision 15-03-042.
2. The requested hourly rates for TURN's representative is comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$17,126.57.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. The Utility Reform Network shall be awarded \$17,126.57.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric, and Southern California Edison Company shall pay The Utility Reform Network their respective shares of the award, based on their California-jurisdictional electric revenues for the 2014 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning August 9, 2015, the 75th day after the filing of The Utility Reform Network's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, 2015, at Sacramento, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1503042		
Proceeding(s):	A1406001		
Author:	ALJ Hymes		
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric, and Southern California Edison Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network (TURN)	05/26/2015	\$17,126.57	\$17,126.57	N/A	N/A

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Marcel	Hawiger	Attorney	TURN	\$410	2014	\$410
Marcel	Hawiger	Attorney	TURN	\$410	2015	\$410

(END OF APPENDIX)